

# Access to Students by Law Enforcement and DCFS - FJ

## **Purpose**

The following outlines Juab School District's recognition of authority and procedures for law enforcement and the Utah Department of Division of Child and Family Services ("DCFS") persons wishing to have access to students at school.

## **General Rules**

Schools are places where students are provided education and education-related services. School personnel providing these services (e.g. administrators, teachers, counselors, therapists, aides, student resource officers (SROs), etc.) have access to children at school as needed to perform their various functions. Additionally, school personnel and District personnel providing support to schools meet with students to discuss their conduct or behavior and/or the conduct or behavior of others. School and District personnel will contact parents after communicating with a student when the student is receiving formal discipline, such as a suspension, or in a case where a student's health or safety may be at risk.

In circumstances where a school or District administrator reasonably suspects that unlawful activity has been committed by a student, law enforcement and/or cooperating agencies will be called to investigate the matter. Law enforcement officers follow agency protocols for contacting parents or guardians to inform them of an investigation.

Outside of the educational program, schools are not places to be used by governmental or private entities to locate or otherwise access students for the sake of convenience. Arresting, detaining, or questioning students for *non-school-related* issues may be allowed in the circumstances set forth in this policy, in circumstances involving health or safety risks or if a student causes actual or potential disruption or danger to him/herself, other students, or the school. However, schools are generally not a forum for interviews of students or investigations for *non-school-related* issues.

## **Definitions**

**Law Enforcement Interview:** An interview conducted by any law enforcement officer or state agency employee investigating alleged criminal behavior. This includes interviews by school resource officers only when the purpose of the interview is criminal investigation and prosecution. It does not include interviews by school resource officers for school discipline purposes, acting to maintain school safety, or interactions for training, counseling, performing outreach, assisting with or teaching crime prevention programs, and acting as a positive role model.

**Principal:** For the purposes of these administrative procedures, "principal" refers to the principal or his or her designee.

## **Cooperation with Law Enforcement**

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The District recognizes that cooperation with law enforcement personnel is essential in matters affecting the health, welfare, and safety of students and the community. Nothing in these procedures is intended to obstruct the ability of law enforcement personnel to discharge their lawful duties.

### **Law Enforcement Access to Students**

When law enforcement personnel seeks or is requested by school administrators to interview a student at school for law enforcement purposes:

1. The principal or other designated administrator and law enforcement agent shall meet to identify or confirm the student sought to be interviewed, and identify or confirm the reason(s) for the interview;
2. The school administrator shall make a written record of the law enforcement agent's request, including presentation of any legal process such as subpoenas or warrants, unless the school had initiated the request for the interview;
3. The school administrator shall verify the identity of the law enforcement agent, if not known by the school administrator, by checking and photocopying the agent's picture identification card, unless the agent is in uniform.

School principals should provide law enforcement personnel with immediate access to students for law enforcement interviews under the following conditions:

1. The law enforcement officer presents a warrant, subpoena, or legal order that cannot be effectively executed outside of school hours;
2. Exigent circumstances exist. Examples of exigent circumstances include, but are not limited to:
  - a. Law enforcement personnel are in pursuit of a suspect on school property;
  - b. Any person is in serious imminent danger;
  - c. Law enforcement personnel have a reasonable belief that evidence is about to be destroyed; and
  - d. Law enforcement personnel need to act promptly to prevent flight from the jurisdiction by a person suspected of serious criminal activity.
3. The law enforcement officer is investigating allegations of child abuse or child neglect.

If law enforcement interviews a student under any of the above conditions, then law enforcement has the responsibility of notifying the student's parents or guardians pursuant to its own policies and procedures.

In the absence of any of the circumstances listed above in this Policy FJ:

1. The principal may use his or her discretion to decide if the interview should proceed. In determining whether to allow an interview, the principal should consider relevant factors, including, but not limited to, the following:

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- a. Whether the law enforcement officer could return later;
  - b. The age and maturity of the student. Absent compelling circumstances and circumstances where law and this policy dictate otherwise, the District presumes that students under the age of 14 should not be interviewed without the consent of their parents or guardians;
  - c. The extent of interruption to the student's school day;
  - d. The nature of the proposed interview, i.e. whether the student is a non-suspect witness or a suspect;
  - e. Any potential negative effects on the school community caused by allowing the interview.
2. Interviews of students by law enforcement personnel about matters unrelated to school should generally be conducted away from school after school hours.
3. If the principal determines the interview should go forward at that time, the principal should attempt to notify a parent or guardian of the request for an interview, and document, in writing, that attempt.
  - a. If a parent or guardian is contacted, and the parent conditions consent on being present, then absent exigent circumstances, the interview should be delayed until the parent arrives.
  - b. If a parent or guardian cannot be contacted, the principal must decide whether to allow the interview to proceed without parental notification. Typically, without parental notification or consent, interviews should only go forward when the student is a non-suspect witness to a school related incident that occurred on or off school property.
  - c. If the principal is unable to contact the parents pre-interview and the interview goes forward, the principal shall inform the parent, in the most direct manner possible, following the interview of the name of the officer conducting the interview and the time, date, and duration of the interview.
  - d. If the student refuses to speak to law enforcement personnel, the interview may not proceed on school grounds.
  - e. If the interview is conducted, the principal or other school official should be present during the entire interview, unless the student requests otherwise.
  - f. Absent an emergency or circumstances justifying other action, all interviews of students should be conducted in private, to avoid disrupting school, protect the student's privacy, and preserve the integrity of the investigation.

### **Principal Involvement in Law Enforcement Interviews**

1. The principal should document all interviews of students by a law enforcement agent held in their presence.
2. The principal should request the law enforcement officer inform the student if the student is a suspect in a crime, or if the student becomes a suspect in a crime during the course of the interview. Upon notification that the student has become a suspect, if the principal had not previously notified the student's parent and obtained parental consent, the principal should require that the interview cease and be conducted at the police

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department, or that it cease until notification and consent of a parent can be obtained unless exigent circumstances exist.

3. It is not the principal's responsibility to advise the student of his or her legal rights.
4. The principal should not participate in the interview on behalf of the law enforcement officer.
5. If the student requests that the interview be terminated, the principal should require that the interview be terminated.

### **Abuse and Neglect**

DCFS and law enforcement conduct investigations of cases involving abuse or neglect of a child.

1. DCFS and Law Enforcement Investigations.
  - a. State law authorizes DCFS and local law enforcement investigators to meet with students at school to investigate allegations of child abuse and neglect.
  - b. Schools shall require positive identification from DCFS or local law enforcement investigators and keep a log of requests from investigators.
  - c. The log requirement can be met through completion of the "Juab School District Notice of Investigation" form. The form shall not be included in the child's cumulative file.
  - d. Notice to parents or guardians of investigations are the responsibility of DCFS and local law enforcement investigators. Parent or guardian inquiries concerning an investigation should be directed to the investigator.
2. School Personnel Participation in Abuse or Neglect Investigations.
  - a. School personnel should cooperate with reasonable requests from DCFS and local law enforcement in child abuse or neglect investigations, including requests to be present during interviews with children. Students may also request the presence of an educator or some other support person during interviews. However, school personnel have no statutory duty or right to be present during interviews.
  - b. School personnel who agree to be present in an interview should be careful to clarify with the investigator and child that their role is to provide comfort and to observe, not to "protect the child's rights." The role of "protecting the child's rights" assumes an additional duty for which school personnel do not have statutory authority and may not be prepared to perform.
  - c. When turning a student over to a DCFS investigator or law enforcement, an administrator should announce in the presence of the investigator and the student something similar to the following: "I am turning this student over to you in accordance with your request; you are responsible for taking any steps necessary to protect the rights of this child, the parents, and any other persons involved."